

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

JUN 23 2016

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: DEMAS WAI YAN,

Debtor,

DEMAS WAI YAN,

Appellant,

v.

TONY FU; et al.,

Appellees.

14-16937

D.C. No. 3:14-cv-00085-RS  
Northern District of California,  
San Francisco

ORDER

Before: TALLMAN and RAWLINSON, Circuit Judges, and GARBIS, Senior District Judge.\*

Demas Yan (“Yan”) has failed to respond to this Court’s Order to “show cause in writing why we should not award attorneys’ fees and double costs to the Appellees under Rule 38 because the appeal is frivolous.” ECF No. 28 at 5.

Appellees have subsequently filed a request for the Court to issue an order finding

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\* The Honorable Marvin J. Garbis, Senior United States District Judge for the District of Maryland, sitting by designation.

Yan's appeal frivolous and award sanctions. Appellees filed a bill of costs, but because they appeared pro se, they are not entitled to attorney's fees. *See, e.g., Kay v. Ehrler*, 499 U.S. 432, 435 (1991) ("[A] pro se litigant who is not a lawyer is not entitled to attorney's fees [under 42 U.S.C. § 1988].").

Accordingly:

1. Appellees' request for the Court to issue an order finding Yan's appeal frivolous is GRANTED.
2. Appellees are hereby awarded double costs.

A copy of this order shall serve to amend the court's prior mandate.

SO ORDERED.